

Copy (11)

JUDGE'S COPY

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

YUDAYA NANYONGA,  
Plaintiff

v.

IMMIGRATION & NATURALIZATION  
SERVICE, DORIS MEISSNER, YORK  
COUNTY, YORK COUNTY PRISON,  
THOMAS HOGAN, CHRISTOPHER  
REILLY, et al.,  
Defendants

CIVIL ACTION  
NO.: 1:CV 00-1034

(JUDGE WILLIAM CALDWELL)

FILED  
HARRISBURG

OCT 25 2000

MARY E. D'ANDREA, CLERK  
Per.                       
DEPUTY CLERK

**MOTION OF DEFENDANTS YORK COUNTY, YORK COUNTY PRISON,  
THOMAS HOGAN AND CHRISTOPHER REILLY TO DISMISS  
PLAINTIFF'S COMPLAINT WITH PREJUDICE**

1. The instant case asserts an alleged violation of the civil rights of the Plaintiff, an immigration detainee, while she was housed in the York County Prison in June of 1998, and more specifically as a result of certain events which transpired on June 9, 1998.
2. A Complaint was filed on June 8, 2000, the day before the statute of limitations would have expired.
3. Plaintiff attempted to effect service of the Summons and Complaint upon the moving Defendants herein by sending them a copy of said process by certified mail.
4. Plaintiff has never made service of the Summons and Complaint upon the answering Defendants in accordance with F.R.C.P. 4(c) by having them

personally served with process by an adult individual or other person duly appointed by the court.

5. The moving Defendants have not waived service of the Summons and Complaint.

6. Plaintiff has not provided the moving Defendants with notice and request for waiver of service.

7. Plaintiff has not provided the moving Defendants with waiver of service forms.

8. Plaintiff has not requested that the moving Defendants waive service of process.

9. Plaintiff has failed to effect service of the Summons and Complaint upon the moving Defendants within 120 days after filing the Complaint.


10. Plaintiff's action should be dismissed for failure to comply with the requirements of F.R.C.P. 4(m).

11. The statute of limitations applicable to Plaintiff's action expired on June 9, 2000, more than 120 days prior to the filing of the within motion.

12. Because Plaintiff has failed to effect proper service of the Summons and Complaint and because the statute of limitations expired more than 120 days before the filing of the within motion, Plaintiff's Complaint should be dismissed with prejudice.

WHEREFORE, Defendants York County, York County Prison, Thomas Hogan and Christopher Reilly respectfully request that this Honorable Court dismiss Plaintiff's Complaint with prejudice.

THOMAS, THOMAS & HAFFER, LLP

A handwritten signature in cursive script, appearing to read "C. Kent Price", is written over a horizontal line.

C. Kent Price, Esquire  
305 North Front Street  
P.O. Box 999  
Harrisburg, PA. 17108  
(717) 255-7632

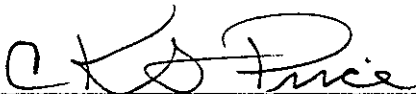
ATTORNEYS FOR DEFENDANTS YORK  
COUNTY, YORK COUNTY PRISON,  
THOMAS HOGAN and CHRISTOPHER  
REILLY

111361.1

CERTIFICATE OF CONCURRENCE/NONCONCURRENCE

The undersigned has attempted to obtain the concurrence or non-concurrence of Gary A. Cavalli, Esquire, counsel for Plaintiff but has not been able to make contact with him as of the time of filing the within Motion to Dismiss Plaintiff's Complaint with Prejudice

The undersigned has sought the concurrence of counsel for Defendants Immigration & Naturalization Service and Doris Meissner, Joseph J. Terz, Assistant U.S. Attorney, in the relief requested in the within Motion to Dismiss Plaintiff's Complaint with Prejudice and such concurrence has been given.


  
C. Kent Price, Esquire

CERTIFICATE OF SERVICE

AND NOW, this 25<sup>th</sup> day of October, 2000, the undersigned does hereby certify that he has this day served a copy of the within Motion to Dismiss Plaintiff's Complaint with Prejudice upon each of the following persons at the addresses set forth below by depositing same in the United States Mail, regular mail, postage prepaid:

Gary A. Cavalli, Esquire  
Pope, Bergrin and Verdesco. P.A.  
572 Market Street  
Newark, NJ 07105

Joseph J. Terz, Assistant U.S. Attorney  
Federal Building  
228 Walnut Street  
Harrisburg, PA. 17101

  
C. Kent Price, Esquire